

REMARKS

Claims 1-3, 6-9 and 19-29 are pending in the present application. Claims 1, 8 and 29 have been amended and claims 4, 5 and 10-18 have been canceled by the present Amendment or a previous Amendment. Claims 1, 8 and 29 are independent. Reconsideration of this application, as amended, is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1-3, 5 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morinaka et al., U.S. Patent No. 5,025,883 in view of Joao, U.S. Patent No. 6,542,076, Yamaura et al., U.S. Patent No. 6,292,107, McMahon, U.S. Patent No. 3,908,168 and Hesker, U.S. Patent No. 6,351,242. Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morinaka et al. in view of Joao, McMahon, Hesker, Yamaura et al. and Kusunoki, U.S. Patent No. 5,763,957. Claims 8, 9 and 19-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kusunoki in view of Hesker and McMahon. These rejections are respectfully traversed.

The present invention is directed to a remote control trunk assembly and a remote controller for a remote control trunk assembly. Independent claims 1, 8 and 29 recite a combination of elements including the recitation "wherein said remote control trunk assembly is mountable on the rear portion of the vehicle body behind a seat, and said projection formed on top of said at least one lid is immediately adjacent a back rest of the seat." Applicants respectfully submit that the references relied on by the Examiner fail to teach or suggest the present invention as recited in independent claims 1, 8 and 29.

Morinaka et al. is directed to a motorcycle having a central trunk 24 and side trunks 55 and 58. As recognized by the Examiner, this reference fails to disclose a remote control for a trunk. In view of this, the Examiner relies on the Joao reference in order to modify Morinaka et al. to include a remote control for the trunk. The Examiner also relies on the Yamaura et al. reference to disclose opening (popping-up) of a trunk using a remote control, McMahon for disclosing a radio receiving circuit mounted at the rear of the motorcycle in the position of the trunk and Hesker for disclosing mounting a radio receiving unit in a trunk lid. Applicants respectfully submit that the combination of references relied on by the Examiner fails to teach or suggest the present invention as recited in independent claims 1, 8 and 29.

Applicants arguments with regard to the numerous modifications of the Morinaka et al. reference have been provided in previous Amendments and will not be repeated here. Applicants reserve the right to re-present these and other arguments on Appeal.

In the Examiner's Office Action, the Examiner states the following with regard to the modification of the combination of Morinaka et al. as modified by Joao, Yamaura et al. and McMahon:

Regarding applicant's argument regarding the reference of Hesker, Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage and the mounting of the radio receiving circuit in a location higher than the top surface of the lid represents an obvious variation because mounting the receiver on the highest point ensures that the receiver will have a better reception. Hesker teaches a lid having a projection (10), and area between the inner top surface 7 and outer surface 10. The receiver unit 5 is mounted on girder unit 2 and mounted above inner surface 7.

Applicants traverse the Examiner's rejection. The Examiner asserts that the Hesker reference discloses a radio signal receiving unit in a projection. The Examiner considers the

outer wall 10 of Hesker to be the projection. First, Applicants do not agree with the Examiner that the outer wall 10 of Hesker is a projection. Second, to the extent the outer wall 10 of Hesker is a projection, a fact that Applicants do not agree with, the antennas 3, 4 and 5 are not mounted in the outer wall 10. The antennas 3, 4 and 5 are mounted on the surface of the inner wall 7 (see Figure 1 and Figure 6 that illustrates the antennas 3 on a surface of the inner wall 7 that is opposite to the outer wall 10).

In view of the above, Hesker only discloses an antenna mounted between inner and outer walls of a trunk. There is no suggestion in the Hesker reference to mount an antenna in, for example, the projection of the lid 31 of Morinaka et al. (see Figure 4 of Morinaka et al., which shows a lid 31 that has a projection formed thereon directly behind the seat back rest 25).

With regard to the comments from the Examiner that "mounting of the radio receiving circuit in a location higher than the top surface of the lid represents an obvious variation because mounting the receiver on the highest point ensures that the receiver will have better reception," Applicants submit that this is not disclosed in any of the references relied on by the Examiner. Therefore, the Examiner is relying on improper hindsight reconstruction. In addition, Hesker actually teaches away from the Examiner's position, since the trunk of the Hesker vehicle is not the highest point on the vehicle. Referring to Figure 3 of Hesker, the roof of the vehicle is the highest point. Also, the antennas 3 and 4 of Hesker extend toward a bottom of the trunk. The Examiner's position therefore lacks merit.

In the present invention, a projection, which is upwardly projected on a top surface of the at least one lid is disclosed. The radio signal receiving unit is disposed inside the projection on

the at least one lid, and is disposed higher than the top surface of the at least one lid. Therefore, the visibility can be substantially better and the trunk volume can be maintained.

In the Examiner's Office Action, the Examiner indicates that it would have been obvious to one having ordinary skill in the art to provide a radio signal receiving unit "in a projection" formed on a top of the trunk of Morinaka et al. However, there is no disclosure in Hesker of providing a radio signal receiving unit in a projection. In view of this, the Examiner's rejection is improper and should be withdrawn.

Although Applicants believe that the previously presented independent claims are allowable over the prior art, in order to expedite prosecution of the present application, the independent claims have been further amended to recite "wherein said remote control trunk assembly is mountable on the rear portion of the vehicle body behind a seat, and said projection formed on top of said at least one lid is immediately adjacent a back rest of the seat." Applicants submit that this additional recitation clearly defines the independent claims over the references relied on by the Examiner.

The Hesker reference provides absolutely no suggestion to specifically locate the radio signal receiving unit of the present invention inside a projection on at least one lid, which projection is formed immediately behind a back rest of a seat as recited in the independent claims of the present invention. The Examiner's rationale is that the radio signal receiving unit should be mounted at the highest point for the best reception of the signal. However, as mentioned above, (1) the Examiner has not provided this teaching in the prior art; (2) Hesker does not disclose a radio signal receiving unit at the highest point of the vehicle and therefore teaches away from the Examiner's modification; and (3) the highest point of the Morinaka et al.

motorcycle would be within the seat back 25 and not within a projection formed in the lid of the trunk that is immediately adjacent the seat back as recited in the independent claims of the present invention. Therefore, taking the Examiner's rationale into consideration, one having ordinary skill would mount the radio signal receiving unit in the seat back and not the projection of Morinaka et al. In view of this, the Examiner's modifications of the Morinaka et al. reference in view of the Hesker reference is improper and should be withdrawn.

With regard to the Examiner's reliance on the Kusunoki reference, this reference also fails to disclose a radio signal receiving unit in a projection of a trunk and therefore fails to make up for the deficiencies of the references relied on by the Examiner.

With regard to dependent claims 2, 3, 6, 7, 9 and 19-28, Applicants respectfully submit that these claims are allowable due to their dependence upon allowable independent claims 1 and 8, as well as due to the additional recitations in these claims.

In view of the above amendments and remarks, Applicants respectfully submit that claims 1-3, 6-9 and 19-29 clearly define the present invention over the references relied on by the Examiner. Accordingly, reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. § 103 are respectfully requested.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Paul C. Lewis, Registration No. 43,368 at (703) 205-8000 in the Washington, D.C. area.

Dated: June 22, 2006

Respectfully submitted,

By 

Paul C. Lewis

Registration No.: 43,368

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant